

AGENDA ITEM SUMMARY

April 21, 2015

City Council

STAFF

Dan Coldiron, Chief Information Officer

SUBJECT

First Reading of Ordinance No. 053, 2015, Extending the Terms of a Non-Exclusive Franchise by the City of Fort Collins to Comcast of California/Colorado LLC and its Successors and Assigns for the Right to Make Reasonable Use Of, and Erect, Construct, Operate and Maintain Through, the Public Rights-of-Way, Easements and Other Public Property Any Equipment Necessary and Appurtenant to the Operation and Maintenance of a Cable System and the Provision of Cable Services to Citizens Within the City.

EXECUTIVE SUMMARY

The purpose of this item is to request a second extension of the current Cable Franchise Agreement between the City of Fort Collins and Comcast of California/Colorado, LLC (Comcast) for a period of 47 days to July 31, 2015. The current, extended agreement expires June 14, 2015. City staff and Comcast representatives have reached mutual agreement on the final elements of the new agreement. The additional 47 days will allow for more time for public input prior to the consideration of the new agreement by Council. The proposed extension will maintain the terms and conditions of the existing Franchise for the duration of the extension.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The current Cable Franchise Agreement between the City of Fort Collins and Comcast of California/Colorado, LLC (Comcast) was adopted by City Council on March 7, 2006. The current Franchise agreement would have expired on March 16, 2015, but was extended 90 days and will now expire on June 14, 2015.

The Federal Telecommunications Act allows cities and cable companies to begin negotiations up to 36 months prior to the expiration of a franchise. The City began the process in February, 2013 by issuing a Request for Proposal for consulting services to obtain a community needs assessment. Staff first met with City Council in April, 2014 to present the needs assessment report, identify issues to be addressed in the negotiations, and to obtain Council direction related to those issues.

Over the course of the ensuing 10 months, City staff and Comcast negotiators met frequently and negotiated terms for most of the franchise requirements. In order to reach final agreement on the final unresolved items being considered during the negotiations, an extension to the existing agreement was requested of and adopted by Council on March 3, 2015. The City's negotiation team and Comcast representatives have since reached agreement on all remaining items and are ready to present the final agreement to Council for consideration.

In order to allow additional time for public input on the proposed new franchise agreement, an additional 47 day extension is now being requested. The current franchise would then expire on July 31, 2015.

ORDINANCE NO. 053, 2015
OF THE COUNCIL OF THE CITY OF FORT COLLINS
EXTENDING THE TERMS OF A NON-EXCLUSIVE FRANCHISE BY
THE CITY OF FORT COLLINS TO COMCAST OF CALIFORNIA/COLORADO LLC
AND ITS SUCCESSORS AND ASSIGNS FOR THE RIGHT TO MAKE
REASONABLE USE OF, AND ERECT, CONSTRUCT, OPERATE AND
MAINTAIN THROUGH, THE PUBLIC RIGHTS-OF-WAY, EASEMENTS
AND OTHER PUBLIC PROPERTY ANY EQUIPMENT NECESSARY AND
APPURTENANT TO THE OPERATION AND MAINTENANCE OF A
CABLE SYSTEM AND THE PROVISION OF CABLE SERVICES TO
CITIZENS WITHIN THE CITY

WHEREAS, Comcast of California/Colorado LLC (“Comcast”), currently holds a cable franchise (the “Franchise”) with the City of Fort Collins, granted by Ordinance No. 010, 2006, on March 7, 2006; and

WHEREAS, the Franchise was scheduled to expire by its terms on March 16, 2015; and

WHEREAS, on March 3, 2015, the City Council adopted Ordinance No. 020, 2015, extending the Franchise for 90 days, until June 14, 2015, to allow Comcast and the City to finish negotiating a renewal of the Franchise; and

WHEREAS, Comcast and the City have completed negotiations, but in order to allow additional time for public input on the proposed new franchise agreement, staff has been asked to revise the schedule for Council consideration of the new agreement; and

WHEREAS, Comcast and the City are therefore requesting a second extension of the Franchise for an additional 47 days, concluding July 31, 2015; and

WHEREAS, it is in the best interests of the citizens of the City to extend the term of the Franchise for an additional 47 days; and

WHEREAS, neither party waives any right that it enjoys under law as a result of agreeing to this Franchise extension, and Comcast shall not be required to file any additional request or document in order to preserve its right of renewal under Section 626 of the Cable Act; and

WHEREAS, Comcast has agreed to the extension of the Franchise as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT COLLINS, COLORADO, as follows:

Section 1. That the Franchise between Comcast and the City, as previously extended pursuant to Ordinance No. 020, 2015, is hereby extended for a period of 47 days, to expire on July 31, 2015. The Franchise shall remain in effect, pursuant to the terms and conditions

contained therein, until the new expiration date, or until a new agreement is entered into between the parties, or until the Franchise is terminated pursuant to its terms.

Section 2. That if any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

Section 3. That all other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Introduced, considered favorably on first reading, and ordered published this 21st day of April, A.D. 2015, and to be presented for final passage on the 5th day of May, A.D. 2015.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 5th day of May, A.D. 2015.

Mayor

ATTEST:

City Clerk